

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

IVAN D. PUTNAM, Civ. No. 05-6088-HO

Plaintiff, ORDER

v.

Commissioner of Social Security,

Defendant.

Plaintiff filed this action for review of the Commissioner's decision denying his application for disability insurance benefits and supplemental security income. The Commissioner filed a motion for order remanding this matter for further proceedings. For the reasons discussed below, the decision of the Commissioner is reversed, and this matter is remanded for further proceedings before the ALJ.

Discussion

The Commissioner concedes that the administrative law judge (ALJ) inadequately evaluated plaintiff's credibility and his wife's testimony, and failed to either adequately address

functional limitations or include the limitations in the assessment of plaintiff's residual functional capacity (RFC). The parties dispute whether the ALJ erred in rejecting the opinion of examining psychologist Katherine Greene, and whether the case should be remanded for further proceedings or payment of benefits.

The court will remand this case for further proceedings before the ALJ. On remand, the ALJ shall reconsider the credibility of plaintiff and his wife, and the weight to give their testimony. The ALJ shall reconsider all the evidence in light of these determinations, and shall reconsider plaintiff's RFC, take additional VE testimony, and issue a new decision. The ALJ is free to further develop the record as he sees fit. Although he must reconsider the evidence, the ALJ need not credit lay testimony or Dr. Green's reports as true. The doctor's assessment of functional limitations and diagnoses of cognitive and anxiety disorders are contradicted by medical evidence. The medical evidence does not require a finding of decline in mental or physical symptoms and functioning since plaintiff was last gainfully employed selling cars in 2003, well after his 1999 automobile accident. Portions of the medical record, including subjective reports by plaintiff, may be read to conflict with the

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lay testimony. Dr. Glassman noted evidence of symptom magnification. (Tr. 183).

Conclusion

Based on the foregoing, the decision of the Commissioner is reversed. This matter is remanded for further proceedings before the ALJ.

IT IS SO ORDERED.

DATED this 13th day of October, 2006.

s/ Michael R. Hogan
United States District Judge